

Description of Amendments to Adequacy Bills

1. Amend the statutes governing platting by cities and counties to provide that in areas outside of AMAs where there is not a mandatory adequacy requirement, ADWR's determination of adequacy or inadequacy must be disclosed on the face of a plat.
2. Amend the "substantial capital investment" exemption as follows:
 - Add language clarifying that substantial capital investment may include: construction costs, site preparation costs, construction of off-site improvements and conversion or remodeling costs for existing structures, as well as the planning and design costs associated with those items.
 - Provide that ADWR (rather than the city, town or county) will determine whether a development qualifies for the substantial capital investment exemption.
 - Clarify that the subdivision must be in compliance in all other respects with existing state law as of the date the adequacy requirement became effective.
 - Add a time limit for applying for the exemption - one year after the mandatory adequacy requirement became effective in the city or county.
 - Add language providing that if a subdivider is granted an exemption based on substantial capital investment, the exemption expires five years after the date it is granted unless: (1) the subdivider sells a lot prior to the end of the five-year period, or (2) the director extends the exemption for not more than two additional five year periods upon a showing that the subdivider has made material progress in developing the subdivision, but sales have been delayed for reasons outside the control of the subdivider. If the exemption expires, the subdivider may not sell lots within the subdivision unless the subdivider reapplies to the State Real Estate Commissioner for a new public report and complies with the adequacy requirements or obtains a different authorized exemption.
3. Amend the exemption relating to the development of a water supply project within 20 years as follows:
 - Make the exemption applicable in all cities, towns and counties that adopt the mandatory adequacy requirement (rather than discretionary with the city, town or county).
 - Provide that ADWR (rather than the city, town or county) will determine whether a development qualifies for the exemption.
 - Add as a condition for qualifying for the exemption that the subdivider must demonstrate financial capability to complete the project.
 - Clarify the provision that allows the exemption if the water supply is not currently legally available to provide that (1) the water supply must be Colorado River water; (2) the water provider that will serve the water must have a current permanent contract for the water supply; and (3) the water provider will have the right to serve the water to the development within twenty years.
4. The city, town or county will continue to have discretion to adopt the exemption relating to water hauling and will continue to make the determination on whether a

proposed subdivision qualifies for the exemption, but the exemption will be changed as follows:

- If a city, town or county rescinds the exemption after adopting it, the city, town or county must wait at least five years before readopting the exemption.
- Remove the language requiring the subdivider to include notice of water hauling in the deed if the exemption is granted and add a provision stating that the subdivider must record a separate document with the plat disclosing the water hauling.

5. Clarify that if a subdivision received final plat approval from a city, town or county prior to the mandatory adequacy requirement becoming effective within that city, town or county, the subdivision may proceed without an adequate water supply as long as the plat is not materially changed (“material change” will be determined under ADWR’s rules).

6. Give legal standing to object to an application for a determination of adequacy to “landowners” within the groundwater basin, in addition to residents.